

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
SUBDIVISION REPORT # FPP-16-07
MONTANA RACEWAY SUBDIVISION
APRIL 25, 2017

This is a report to the Flathead County Planning Board and Board of Commissioners regarding a request for preliminary plat approval of Montana Raceway Subdivision. The major subdivision would create 57 residential lots, developed in 3 phases. Located between Kalispell and Whitefish, the subject property is located on the west side of Highway 93 near the Majestic Valley Arena, within the Highway 93 North Zoning District and Riverdale Neighborhood Plan.

The Riverdale Land Use Advisory Committee held a public hearing on the proposed Subdivision on December 19, 2016 and made no recommendation to the Flathead County Planning Board, instead choosing to voice concerns. The Flathead County Planning Board scheduled to have a public hearing on the proposed subdivision on January 11, 2017. The applicants chose to postpone the hearing after the planning board suggested improvements to the Planned Unit Development (PUD) and associated subdivision. The Planning Board will hold a public hearing in the Earl Bennett Building conference room at 1035 1st Avenue West, Kalispell on May 10, 2017 to review the proposal and make a recommendation to the Flathead County Commission. The applicant has waived the statutory timeframe pertaining to the proposed subdivision. Documents pertaining to this application are available for public inspection at the Flathead County Planning and Zoning Office, located in the South Campus Building at 40 11th Street West Suite 220, Kalispell, Montana.

UPDATE: This staff report went to the January 11, 2017 Planning Board meeting and it was determined that additional information and an updated plan was needed before a decision could be made. This staff report has been updated with new information in places labeled 'UPDATE'.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The Riverdale Land Use Advisory Committee met at 6:30 pm on December 19, 2016 in the lobby of Majestic Valley Arena to review the proposed PUD and associated subdivision. Board members present included Lacy Galpin, Hank Galpin, and Scot Hedstrom.

Staff presented the report, summarizing agency comments and concerns as well as planning office concerns. The board discussed at length concerns regarding lack of a secondary access, density, storm water runoff, perimeter fencing, proximity to landfill, and Montana's right to farm statutes.

Hank Galpin made a motion to recommend approval of the PUD request and associated subdivision, seconded by Scot Hedstrom. The motion failed 2-1. Hank Galpin made another motion to recommend neither approval nor denial of the PUD request and associated subdivision because of concerns listed below. Scot Hedstrom seconded the motion. The motion passed 3-0.

Riverdale Land Use Advisory concerns:

1. Lack of secondary access (or second primary access)

2. Density
3. Stormwater infiltration/runoff
4. Necessity of adequate perimeter fencing to protect Majestic Valley Arena from liability due to accidents involving people and livestock, and to protect neighboring properties
5. Proximity to the landfill, particularly regarding water quality
6. Right to Farm

B. Planning Board

This space is reserved for an update of the January 11, 2017 Flathead County Planning Board public hearing.

UPDATE JANUARY 12, 2017:

The Planning Board met on January 11, 2017 to hold a public hearing regarding the proposed subdivision. At the public hearing, the applicants stated they would prefer to postpone the hearing after the planning board suggested improvements to the Planned Unit Development (PUD) associated with the subdivision. The Planning Board discussed issues relating to the project including parkland requirements, and stormwater runoff, septic, and access. The Planning Board unanimously voted to table the application to a date uncertain. This space is reserved for an update of the May 10, 2017 Flathead County Planning Board public hearing.

C. Commission

The Flathead County Board of Commissioners were scheduled to review this proposal after the public hearing conducted by the Planning Board and prior to March 8, 2017 which was the end of the 80 working day statutory review period. The applicants have waived their right to this statutory timeframe. This space will contain an update regarding the Flathead County Commission review of the proposal.

II. GENERAL INFORMATION

A. Project Personnel

i. Applicant/Owner

Thornton Motorsports, LLC
PO Box 280
Whitefish MT 59937

ii. Technical Assistance

APEC Engineering, Inc.
75 Somers Road
Somers, MT 59932

B. Project Description

The subject property is currently seeking preliminary plat approval of Montana Raceway Subdivision. The major subdivision would create 57 residential lots, developed in 3 phases. All lots will be served by a public water supply system served by two new wells and individual septic systems with a common drain field. The subdivision will have only one primary access via McDermott Lane.

C. Legal Description of Subject Property

The proposed subdivision would occur upon one tract of record that can be legally described as the Southwest Quarter of the Northeast Quarter (SW ¼ NE ¼) of Section 12 in Township 29 North, Range 22 West, P.M.M., Flathead County, Montana.

D. Detailed Location

Located at 3790 Highway 93 North, the subject property is located between the cities of Kalispell and Whitefish, on the west side of Highway 93 (see Figure 1). The proposed subdivision is approximately 0.5 miles north of the Kalispell city limits.

Figure 1- Subject property (highlighted yellow) and vicinity



E. Subdivision Layout Detail- Updated per preliminary plat received July 12, 2016

i. Total Subdivision Acreage:	40.600 Acres
ii. Acreage in Lots:	26.668 Acres
iii. Acreage in Roads:	06.603 Acres
iv. Total Park/Common Area/Open Space Acreage:	05.070 Acres
1. "Homeowner's Association Park"	04.135 Acres
2. Utility Lots	03.194 Acres
v. Minimum Lot Area:	0.3710 Acres
vi. Maximum Lot Area:	0.6980 Acres
vii. Overall Gross Lot Density:	1 DU/0.71 Acres

viii. Easements:

1. 60-foot private road and utility easement over Winter Park Ventures LLC property (to the east) connecting to McDermott Lane on the northeastern corner of the subject property.

F. Administrative Characteristics

i. Current Land Use

The subject property is currently developed as Montana Raceway Park, a racetrack hosting events seasonally from May to October. The track is a 1/4 mile inside and 3/8 mile outside. Montana Raceway Park has the capacity for approximately 3,000 spectators, multiple outbuildings for full concessions, and a RV park.

Figure 2 - Current land use and land cover (subject property shown yellow)



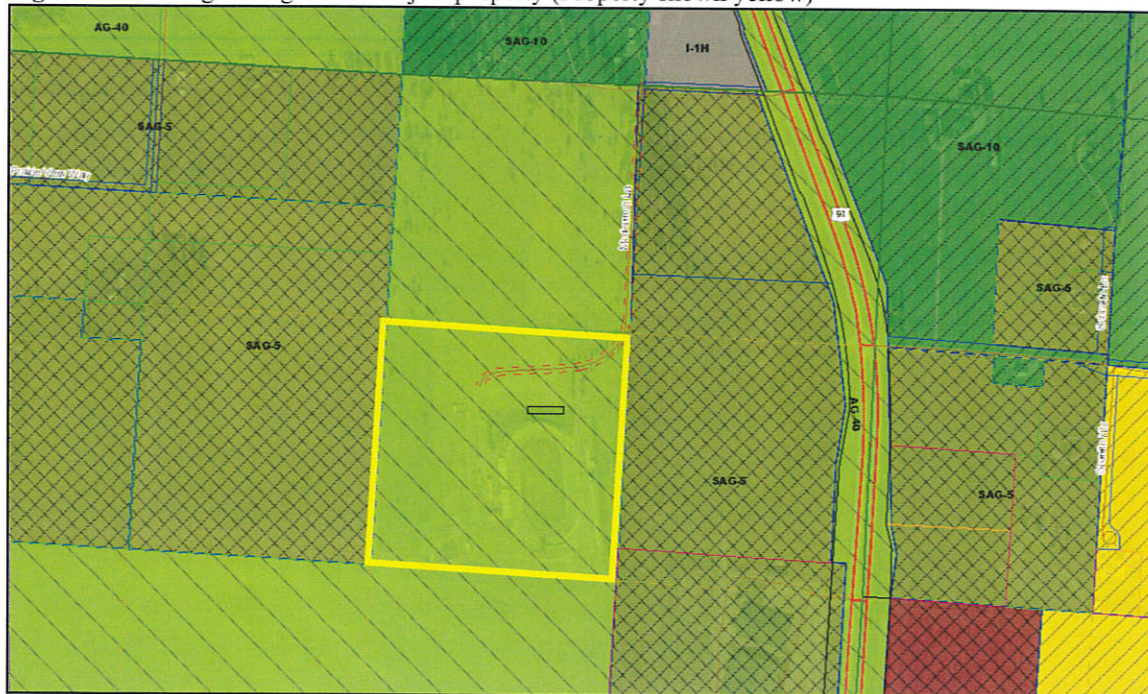
ii. Current Zoning

Located within the Highway 93 North Zoning District, the subject property is currently zoned AG-40 *Agriculture* but is currently seeking a zoning map amendment to change the zoning to R-1 *Suburban Residential* and also has submitted an application for a Planned Unit Development (PUD). If the PUD and zone change were approved, the zoning on the subject property would be R-1 PUD.

The subject property is within the Riverdale Neighborhood Plan area. The area is designated in the plan as *Mixed Use* and is described as *a land use category intended to provide flexibility in design and to promote a mix of commercial and housing options. This category permits retail and general commercial uses that serve the broader community and tourist economy. Mixed residential-commercial uses where the commercial portion is compatible with the residential is appropriate. This category permits a range of commercial development such as hotels, banks, restaurants, professional office centers and mix of residential use including apartment complexes, single family attached and detached, duplexes, town homes, and accessory apartments at an average density of six (6) dwelling units per one (1) acre. Commercial developments should be configured as centers or nodes. Strip commercial configurations should be avoided. Development density in the Mixed Use land use category may be increased with the creation of community or public water and sewer systems or annexation into a municipal water and sewer district. Commercial development such as shopping malls or large box retail stores (e.g. Super Wal-mart) is neither appropriate nor contemplated in this land use category.*

“All mixed use projects should be planned and processed as PUD Overlays and then hard zoned as a PUD. This plan recommends that new mixed use PUD zoning districts be created to facilitate combinations of commercial and residential land uses.”

Figure 3 - Existing zoning on the subject property (Property shown yellow)



iii. Proposed Land Use

The proposed PUD and associated subdivision would create 57 single-family residential lots on the subject property, with 2.31 acres set aside as accessible, open space, with .960 acres of the open space dedicated as parkland. The new lots would

be situated along the proposed internal subdivision roads. All lots would be served by a public water supply system served by two new wells and individual septic systems with a common drain field. The subdivision will have only one primary access via McDermott Road. All roads would be designed and constructed to meet applicable County road standards.

UPDATE APRIL 21, 2017:

The applicants have updated their application and increase the open space and park space within the proposed subdivision. The new plan still creates 57 single-family residential lots but increases the total open space to 7.3 acres and 4.1 of that open space is proposed to be dedicated park space. All lots would be served by a public water supply system served by two new wells and individual septic systems with a common drain field. The subdivision will have only one primary access via McDermott Road. All roads would be designed and constructed to meet applicable County road standards.

G. Area Characteristics

i. Description of Area Surrounding Proposed Subdivision

Located just a short distance west of US Highway 93, the proposal site is situated on an elevated bench west of Highway 93 near the Majestic Valley Arena. The terrain in this area is generally flat and gently rolling with agriculture to the west, a conservation easement to the south and commercial properties to the east and suburban agriculture to the north.

ii. Zoning

As shown in Figure 3 above, the subject property is currently located within AG-40 *Agricultural* zoning district but is currently seeking a zoning map amendment to change the zoning to R-1 *Suburban Residential*. The subject property is surrounded by agricultural and suburban agricultural zoning use designations. The proposed R-1 PUD area is bordered to the west and east by areas of SAG-5 *Suburban Agricultural* and to the north and south by AG-40 *Agricultural* zoning use districts. Beyond the immediate vicinity of the proposal, higher density R-2 PUD and R-4 PUD zoning use districts are established as well as a B-1 PUD all of which have been annexed by the City of Kalispell, the nearest point occurs 0.5 miles south of the subject property.

iii. Land Uses

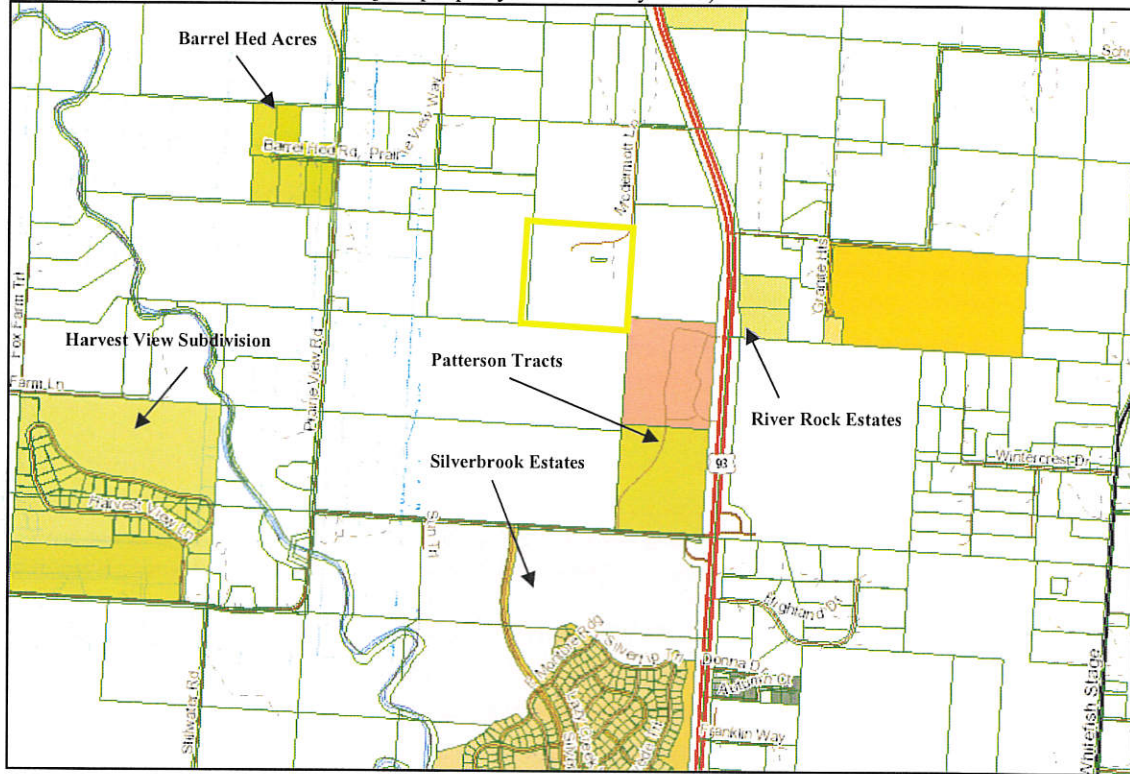
As shown in Figures 1 and 2 above, the subject property is situated in an area developed with agricultural, commercial and relatively low-density residential uses. Limited instances of light industrial and commercial uses occur within an approximate one-mile radius from the site. The predominant character of the area surrounding the subject property is agricultural and estate-type rural residential, with lot sizes ranging from 1.5 to 119 acres on the west and south sides of the subject property. The subject property and adjacent parcels tend to be open fields and pastures. The mix of agricultural, residential, and commercial land uses is consistent with the established mixed zoning present in the general area.

iv. Previously Considered Subdivisions in Area

As in Figure 4, multiple subdivisions are located within the vicinity of the proposed preliminary plat. The property to the southeast of the subject property is the

Majestic Valley Arena and is part of a subdivision called Patterson Tracts. Harvest View Subdivision, Barrel Hed Acres, and River Rock Estates are also in the vicinity and under Flathead County jurisdiction. Silverbrook Estates located ½ mile south of the subject property is located within the city limits of Kalispell.

Figure 4 - Area subdivisions (Subject property outlined in yellow)



H. Utilities and Services

i. Water

Public water system proposed

ii. Wastewater

Public subsurface wastewater system proposed (individual septic tanks with a shared drainfield)

iii. Electricity

Flathead Electric Cooperative

iv. Natural Gas

Northwestern Energy

v. Solid Waste

Evergreen Disposal

vi. Telephone Service

CenturyLink

vii. School District(s)

Whitefish School District #44 (K-12)

viii. Fire District(s)

West Valley Fire District

ix. Police

Flathead County Sheriff's Department

III. COMMENTS RECEIVED

A. Agency Comments

Agency referrals for comments on the proposed subdivision were sent to pertinent agencies on November 16, 2016. Agency referrals regarding the associated PUD were sent out on September 8, 2016. Because some of the comments received regarding the PUD are also relevant to the subdivision, they will also be included in this section. As of the date of completion of this staff report, the following comments have been received:

- Wendee Jacobs, Flathead City-County Health Department
 - Comment: "The proposed 57 lot subdivision would require review of the lots under the Sanitation in Subdivisions Act (Title 76, Chapter 4, Part 1). The application proposes a new public water supply and new public wastewater collection and treatment system. The proposed development is approximately 3000 feet from the nearest component of the Kalispell municipal sewer system located on Church Drive. Under review, if the proposed development is within 500 feet of any of the public system's components, connection to the public system is required. Development of Kalispell is expanding north along Highway 93. Although connection and service is not required under review, the department recommends connection to city services."
- James Chilton, Flathead County Solid Waste District
 - Comment: "The District requests that all new subdivisions use a private hauler to bring solid waste to the landfill. The outlying green box sites should not be used as the primary method of solid waste disposal. Evergreen Disposal is the (PSC) Public Service Commission licensed hauler in this area.... After reviewing the project summary, I believe that solid waste management is being followed properly."
- David Prunty, Flathead County Road and Bridge Department
 - Subdivision Comment: "We didn't see that a second ingress/egress location was planned for the subdivision. Also, we understand that the "emergency" access is located in the northeast corner of the subdivision where McDermott Lane enters the property. The provided plat labels this as an existing 60 ft private road and utility easement. In the event of an emergency, access to the easement could be difficult if McDermott is not able to be utilized.

The other issue we see in the level of service for the turning motion on McDermott Lane east bound. Both current and developed scenarios are at level C. Assuming there will be more growth in the area it appears an undesirable level of service at this intersection is possible as the growth continues north of the City of Kalispell."
 - PUD Comment: "Our files show that McDermott Lane was improved in 1996 by Raceway Park in the area through the wetlands immediately off Highway 93."

Paving may have come after this time. The improvements were very beneficial and have withstood the current traffic loading. With the planned PUD and the anticipated increase in traffic loading we don't know if improvements will continue to function at their current level. An analysis from a geotechnical engineer may be beneficial to assess the improvements structural section."

- Julie Weber, Bonneville Power Administration
 - Comment: "In reviewing the proposed plan, it appears this request will not affect any BPA facilities located within this area. BPA does not have any objections to the approval of this request at this time."
- Marc Pitman, DNRC Water Resources Division
 - Comment: "**Water Rights:** The Engineer's Report for the PWS seems to be a cut and paste from an RV Park near Eureka in Lincoln County. The water use requirements only address domestic use for the 57 single family home lots. Using DEQ standards of 100 GPD/capita with a average of 2.5 capita per household, the annual use is estimated at 15.96 AF/year. Typically, lawn and garden irrigation demands exceed domestic demands in a subdivision. I cannot find any reference to lawn and garden irrigation in the report. Will there be lawn and garden irrigation from the PWS or is a second system from the existing non PWS well going to be used for lawn and garden irrigation?

Even without lawn and garden irrigation the estimated domestic use annual volume of 15.96 AF/year exceeds the water right permit exceptions under MCA 85-2-306 3 (iii). Therefore, a water right permit is required and will need to be issued prior to approval of a COSA by DEQ. The Applicants should contact DNRC as soon as possible about applying for a water right permit.

The Engineer's report mentions an existing multi-user well, GWIC Id# 125944. The water right association with this well, 76LJ 77490-00, is filed on a commercial use for up to 1.97 AF/year at a pumping rate of 45.0 GPM. If this well is going to be used for irrigation of utility and park lots then most likely a water right permit will need to be issued on this well, prior to approval of a COSA by DEQ. Again there seems to be some confusion resulting from a cut and paste error in the report. Are the "utility and park lots" referred to in the report actually single family home lots? Again, are there going to be two systems one for a PWS and another for lawn and garden irrigation?

The pump test on the existing well mentions drawdown in the well when it was pumped for 5 days at 138 GPM. Was draw down measured in a separate monitoring well as required for an aquifer test needed for a water right permit application?

Floodplain: The proposed subdivision is located outside any mapped regulatory floodplains."

- Jessie Coltrane, Wildlife Biologist, Montana Fish Wildlife & Parks
 - Comment: "Wildlife Habitat Values: The agricultural fields locates within the vicinity and adjacent to the proposed subdivision area provide important spring and fall habitat for migratory waterfowl, including Canada Geese, northern

pintails, and mallards, and sandhill cranes. Development of these areas into high density housing will undoubtedly displace migrating waterfowl. This habitat also supports white-tailed deer and other small mammals.

Agricultural Area

To mitigate impacts of housing developments on spring migratory waterfowl, including sandhill cranes, we typically recommend clustering development to maintain tracts of undeveloped lands. Establishing smaller residential lots with larger tracts of undeveloped land will help maintain important wildlife habitat; however, since this property is currently zoned AG-40, residential development should be minimal and large tracts of undeveloped land would be dominant. This is preferred to a high density clustered subdivision. The current proposed development will only preserve 1.106 acres of green space that has essentially no wildlife value. As proposed, essentially the entire 40 acres will be occupied by residential housing, eliminating any value to wildlife.

Ungulate Winter Range

The Raceway Park Subdivision Property falls within white-tailed deer winter range. Providing linkages between habitat patches for ungulate winter range are critical to maintain white-tailed deer populations. In particular, maintenance of ungulate habitat within the riparian corridor is paramount to sustaining deer winter range.

FWP is often questioned as to whether the subdivision of winter range really has any effect on ungulate wildlife populations. Winter range is not as limited as wetlands, for instance, or as easy to delineate as a riparian area. Winter ranges are the most limiting habitat type for ungulates and serve the winter needs for animals migrating from higher elevation summer ranges, as well as providing for the yearlong habitat needs of lower density of resident animals. The impact of any single subdivision proposal is typically small due to the previously mentioned fact that winter range habitat is more widespread. However, the cumulative effects of subdivisions over time or the effects of larger or extensive anticipated future subdivisions in the area can have significant impacts on wintering ungulates if consideration for winter range is not incorporated into the planning. In short, alterations in winter range in quality or availability will result in significantly lower ungulate populations.

We encourage Flathead County Planning and Zoning to deny this zone change and subdivision request to maintain the character of the area and to preserve the land value to agriculture and wildlife. If this zone change is approved, we encourage the landowner to work with FWP fish and wildlife biologists in advance of defining actual future lots so that predevelopment activities can occur with minimum impacts to fish and wildlife. We also believe that FWP can help the developer reduce future fish wildlife impacts through subdivision design and development of covenants that allow development, but with the least impacts to fish, wildlife, water quality, and other resource values.”

- Russ Sappington, Fire Chief, West Valley Rural Fire District
 - Fire Department Comment: “The only issue I would have is that the road would

need to be widened to county road specs as to allow easier access with apparatus. The surrounding area is mainly grass and opened area with some wooded area on the north side. So my concern for a mass evacuation due to wildfire isn't that great.

B. Public Comments

In accordance with Section 4.0.14 Flathead County Subdivision Regulations (FCSR), adjacent property notification was mailed to neighboring property owners within 150 feet of the proposed subdivision on December 23, 2016 and April 21, 2017, legal notice was published in the Daily Interlake on December 25, 2016 and April 23, 2017 and notice of the proposal and public hearing will be physically posted onsite on December 28, 2016 and April 26, 2017.

As of the date of the completion of this staff report, no public comments have been received. Any written public comment received after April 21, 2017 will be summarized verbally during the Planning Board hearing on May 10, 2016. Anyone wishing to provide verbal public comment may do so in person at the May 10, 2016 Planning Board hearing.

IV. LOCAL GOVERNMENT REVIEW

A. Review Criteria

Findings in this portion of the report are applicable to the impacts of the proposed subdivision on the review criteria listed.

i. Impact on Agriculture

According to the Environmental Assessment, the subject property is not an agricultural tract but the properties to the south and west are currently used for agriculture. It would appear that the development would not remove any agricultural land from productive use.

While the subject property is currently zoned AG-40 *Agriculture* and could be utilized for agricultural production, the Web Soil Survey indicates that the majority of the property is not considered prime farmland, although the properties to the east and south are in agricultural production. A very small piece of the subject property contains 'Kalispell Loam' and is classified as: 'prime farmland if irrigated.' The subject property is currently used as a racetrack and will not take any farmland out of production.

Table 1: Farmland Classification, summary by map unit

Map Unit Symbol	Map Unit Name	Rating	Acres	Percent of Property
Ke	Kalispell Loam, 0-3% Slopes	Prime Farmland if Irrigated	0.2 Acres	0.5%
Kza	Kalispell-Tuffit Silt Loam, 0-3% Slopes	Not Prime Farmland	0.1 Acres	0.3%
Pc	Prospect Loam, 7-12% Slopes	Not Prime Farmland	29.4 Acres	72.4%
Pd	Prospect Loam, 12-20% Slopes	Not Prime Farmland	10.9 Acres	26.8%
Totals			40.6 Acres	100%

Farmland classification identifies map units as prime farmland, farmland of statewide importance, farmland of local importance, or unique farmland. It identifies the location and extent of the soils that are best suited to food, feed, fiber, forage, and oilseed crops.

Figure 5: NRCS Web Soil Survey Farmland Classification



Table 2: Irrigated Soil Classification, summary by map unit

Map Unit Symbol	Map Unit Name	Rating	Acres	Percent of Property
Ke	Kalispell Loam, 0-3% Slopes	Class 2	0.2 Acres	0.5%
Kza	Kalispell-Tuffit Silt Loam, 0-3% Slopes	Class 2	0.1 Acres	0.3%
Pc	Prospect Loam, 7-12% Slopes	Class 4	29.4 Acres	72.4%
Pd	Prospect Loam, 12-20% Slopes		10.9 Acres	26.8%
Totals			40.6 Acres	100%

Capability classes are designated by the numbers 1 through 8. The numbers indicate greater limitations and narrower choices for practical use. The classes are as follows (from web soil survey <http://websoilsurvey.nrcs.usda.gov/>)

- *Class 1 soils have few limitations that restrict their use.*
- *Class 2 soils have moderate limitations that reduce the choice of plants or that require moderate conservation practices.*
- *Class 3 soils have severe limitations that reduce the choice of plants or that require special conservation practices, or both.*
- *Class 4 soils have very severe limitations that reduce the choice of plants or that require very careful management, or both.*
- *Class 5 soils are subject to little or no erosion but have other limitations, impractical to remove, that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat.*
- *Class 6 soils have severe limitations that make them generally unsuitable for cultivation and that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat.*
- *Class 7 soils have very severe limitations that make them unsuitable for cultivation and that restrict their use mainly to grazing, forestland, or wildlife habitat.*
- *Class 8 soils and miscellaneous areas have limitations that preclude commercial plant production and that restrict their use to recreational purposes, wildlife habitat, watershed, or esthetic purposes.*

The Riverdale Land Use Advisory Committee brought up concerns with potential impacts to agriculture and requested to have a statement on the final plat indicating the subdivision was in an agriculturally active area and to expect farming activities.

UPDATE APRIL 21, 2017:

The applicants have updated the application and preliminary plat include a 20-foot agricultural buffer around the entire subdivision.

Finding #1

Impact on agriculture may occur because although the subject property has not been utilized for agricultural production in previous years, over 70% of the subject property has ‘severe limitations,’ and 99.5% property is not considered prime farmland; the subject property is adjacent to property presently under agricultural production but will be mitigated by a 20 (twenty) foot agricultural buffer around the entire subdivision as well as a statement on the final plat indicating that the area is in active agricultural production.

ii. Impact on Agricultural Water User Facilities

As indicated in the submitted Environmental Assessment, the subject property does not contain any “agricultural user facilities but does adjoin property with agricultural water user facilities.... There are no irrigation ditches within the property; therefore, no users of irrigation water surrounding the subdivision will be impacted.”

Marc Pitman of the DNRC was contacted on December 2, 2016 for comments pertaining to the project. His comments and concerns did not indicate any concern regarding

agricultural water user facilities.

Finding #2

There would be no impact to agricultural water user facilities because the subject property does not contain agricultural water user facilities.

Impact on Local Services

1. Water and Wastewater

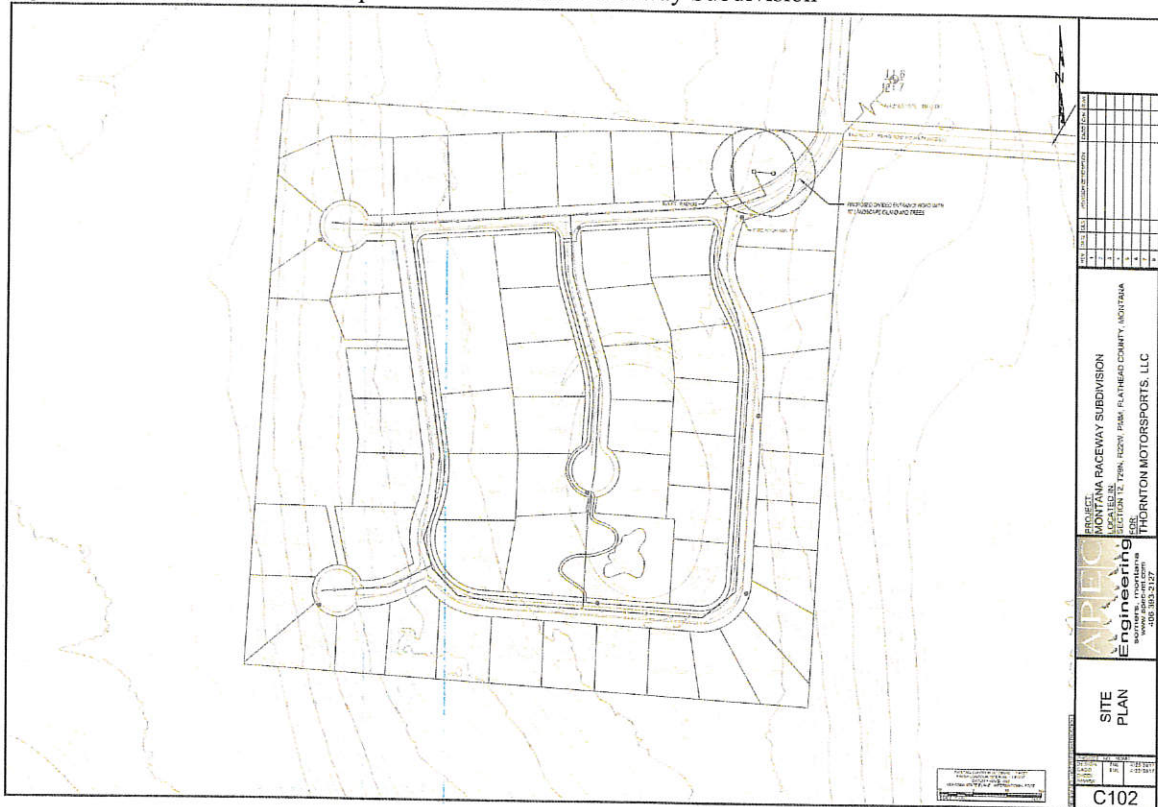
The preliminary plat application indicates the 57 lots will be served by a public water system and by a new subsurface wastewater treatment system where each lot would have an individual septic tank and drained to a community drain field. According to the Engineers Report, the 57 lots will utilize a total of 14,250 GPD for domestic use. The Engineers Report also indicates the existing well does not meet design requirements or sanitation standards of a public water supply. This well will only be used for irrigation. The water system manual indicates the water for irrigation will be supplied by the new public water supply. It is unclear whether the public water supply or existing well will supply the irrigation water. The Environmental Assessment indicates the average daily demand for the subdivision is 40.2 gallons per minute and includes both domestic use and irrigation. Because the total water usage for the proposal will exceed the 35 gallons per minute and 10 acre feet per year, the applicant will need to secure a water right for the proposed subdivision. Marc Pitman of Montana DNRC Water Resources Division expressed concerns over confusion regarding well drawdown monitoring requirements, irrigation uses, and water right permits. These issues will need to be addressed before final plat and will be conditioned and the DNRC water right review process.

It appears that the water quality is appropriate but is unclear whether water quantity met the standards of Montana DNRC. An analysis conducted by Montana Environmental Laboratory LLC indicates there is adequate water quality on the subject property. The preliminary plat application indicates three test holes were excavated, to a maximum depth of 102 inches, and indicated no high ground water. A water well agreement will be required during DEQ review and an acceptable example was provided with the application materials.

The subdivision will utilize fire hydrants for fire protection. Russ Sappington, of the West Valley Fire Department verbally told the planning office on December 1, 2016 that he requested the applicants to install a cistern on site and pressurize the water to the hydrants. The subdivision will be required and conditioned to address reasonable requests from West Valley Fire Department.

As indicated in the submitted application, the plan for wastewater treatment is to use individual septic tanks with a shared drain field. The Environmental Assessment indicates that a total of 14,750 gallons per day (GPD) of wastewater will be produced as a result of the subdivision. As with all subdivisions and according to comment by Wendee Jacobs of the Flathead County Environmental Health Department, both water and wastewater services for the proposed subdivision lots less than 20 acres in size will be required to be reviewed and approved as applicable by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality.

Figure 6: Water and wastewater plan for the Montana Raceway Subdivision



Finding #3

Water quality and wastewater management for the proposed 57 lots appears to be appropriate because adequate quality appears to exist for the proposed public water system, sufficient soils and depth to water table exist for the new public subsurface wastewater treatment system, the water and wastewater systems would be required to be reviewed and permitted by the Montana Department of Environmental Quality as applicable prior to their installation and operation. The applicants did not submit a new water and wastewater plan with the updated application materials. It is assumed by the planning staff that the water and wastewater plan remain the same with the exception of lot size changes.

Finding #4

It is not clear whether the appropriate water supply for the subdivision exists because the application was unclear on well drawdown monitoring requirements, irrigation uses, and water right permits but this can be mitigated through conditions requiring the developer to be reviewed by the Montana Department of Natural Resource Conservation for applicable water rights.

2. Schools

The proposal is located in the Whitefish School District #44. The application indicates the applicant was not able to correspond with the Whitefish School District and an agency referral was unanswered. Based on an average of .31 school age children per dwelling, the development would add an additional 18 school-aged children once the 57 lot residential subdivision is fully developed. Staff was able to correspond with Whitefish

School District Superintendent, Heather Davis Schmidt, who indicated the school district could handle the increase in terms of class sizes and transportation.

3. Mail Delivery

The developer is proposing a centralized mailbox location. The location of the centralized mail facility serving the proposed subdivision shall require review and written approval from the local postmaster as a condition of final plat approval and should meet the location requirements outlined in Section 4.7.28 FCSR.

4. Recreation

The proposed subdivision is located in northwest Montana, is an area abundant in recreational opportunities. The nearby lakes, rivers and public lands offer a surplus of activities that include hiking, boating, biking, hunting, and fishing. The proposed subdivision is a major subdivision and is required to provide 2.68 acres of parkland per the formula provided in FCSR Section 4.7.24(e). The proposed preliminary plat indicates that .96 acres of parkland will be provided. The applicants would be required to provide cash-in-lieu of 1.72 acres of parkland dedication. Comments from nearby property owners at the Riverdale Land Use Advisory Committee meeting on December 19, 2016 indicated concern with the lack of recreational opportunities for children in the proposed subdivision and the lack of recreational opportunities in the immediate neighborhood.

Comments from nearby property owners at the Riverdale Land Use Advisory Committee meeting on December 19, 2016 indicated concern with the lack of recreational opportunities for children in the proposed subdivision and the lack of recreational opportunities in the immediate neighborhood. The Riverdale Land Use Advisory Committee also indicated concern over children in the area potentially causing problems on neighboring agricultural properties because of the lack of parkland.

UPDATE APRIL 21, 2017:

The applicants have updated the application to offer more open space and subsequently more dedicated parkland. The updated preliminary plat application indicates they will no longer do cash-in-lieu as they have increased the total open space to 7.3 acres with 4.1 acres as dedicated parkland, meeting the required minimum parkland acreage based on lot size formula found in FCSR.

Finding #5

Impacts on local services would be acceptable with the imposition of standard conditions because the proposed subdivision would be located within the Whitefish School District #44 which has indicated ability to accommodate students, a centralized mailbox is proposed and shall be approved by the postmaster, and the parkland that will be provided to satisfy the parkland requirement meets and exceeds the minimum requirement found in FCSR.

5. Transportation Network

Primary access to the proposed subdivision would be provided by Raceway Loop via McDermott Lane. McDermott Lane is a paved local road and is accessed via U.S. Highway 93. Dave Prunty from Flathead County Road and Bridge Department expressed concern regarding access to the subdivision: "We didn't see that a second ingress/egress location was planned for the subdivision. Also, we understand that the "emergency" access is located in the northeast corner of the subdivision where McDermott Lane enters

the property. The provided plat labels this as an existing 60-foot private road and utility easement. In the event of an emergency, access to the easement could be difficult if McDermott is not able to be utilized. The other issue we see in the level of service for the turning motion on McDermott Lane east bound. Both current and developed scenarios are at level C. Assuming there will be more growth in the area it appears an undesirable level of service at this intersection is possible as the growth continues north of the City of Kalispell.”

The planning office shares these same concerns with the Flathead County Road and Bridge Department. Section 4.7.15(a) of FCSR states *The Commission may require a second primary access road or multiple primary access road(s) to a subdivision when the proposed subdivision generates more than 200 vehicle trips per day.* While it is clear that the decision is left to the Commission, the Traffic Impact Study submitted with the preliminary plat indicates that the proposed subdivision will generate approximately 565 trips per day, almost triple the amount needed to require a second access. The Traffic Impact Study also indicates that there is an emergency access located on the northeast corner of the subdivision. Planning staff does not consider this to be an emergency access because it connects to McDermott Lane before the entrance of the subdivision and does not offer any additional access to the proposed subdivision.

As indicated on the preliminary plat, ‘Raceway Loop’ circles the entire subdivision, providing access to most lots in the subdivision. In addition to Raceway Loop, lots 28-31 will be accessed by Victory Lane Circle; lots 17-22 will be accessed by Pit Stop Circle; and lots 44-54 will be accessed by Finish Line Drive. All interior subdivision roads will be paved and in compliance with Flathead County’s Minimum Standards for Design and Construction. An approach permit from McDermott Lane will be required at the time of final plat.

The Phasing Plan indicates that the northern section of Raceway Loop, Victory Lane Circle, and Finish Line Drive will be completed during Phase 1 consisting of 22 lots; the western section of Raceway Loop and Pit Stop Circle during Phase 2 consisting of 13 lots; and the southern and eastern portions of Raceway Loop at Phase 3 consisting of the remaining 22 lots. Based on the design of the lots, it appears that each lot will have direct access to a paved roadway at the time of final plat of each phase. The subdivision will be conditioned to require access to a paved roadway for each lot at the time of final plat for each phase and associated lots.

The application also includes draft Declaration of Covenants, Conditions, and Restrictions (CC&Rs) that describe road maintenance provisions. Section 5.1(a) indicates that the roads would be maintained in passable condition year round by the homeowner’s association.

UPDATE APRIL 21, 2017:

The applicants have updated the preliminary plat application to address access. The new application indicates the McDermott Lane, where it enters the proposed subdivision, will be a divided entrance with a landscaped median. The planning office still views this as a single entrance and still has the same concerns as the original access plan. The ‘emergency access’ has not changed and planning staff does not consider this to be an

emergency access because it connects to McDermott Lane before the entrance of the subdivision and does not offer any additional access to the proposed subdivision.

Finding #6

The transportation network does not appear to be adequate because there does not appear to be appropriate primary and emergency access to the subdivision although there does appear to be physical and legal access to the property, an approach permit would be required for final plat and the interior subdivision roads would be maintained by the homeowner's association.

6. Fire/Emergency Medical Services

The site is currently located within the West Valley Rural Fire District and a fire station is located approximately 9 miles from the subdivision on Farm to Market Road. The applicant has indicated that fire hydrants will be developed for fire protection (Figure 6). A conversation with West Valley Fire District Chief, Russ Sappington, indicated he wanted the applicants to install a cistern on the property for fire protection as well as pressurized hydrants. The Kalispell Regional Medical Center is located approximately 6.6 driving miles away. Based on the location of the subdivision outside the city limits of Kalispell, emergency medical service response times should be consistent with those of the nearby city.

West Valley Fire Department was contacted on November 17, 2016 and again on December 1, 2016 regarding this proposal and while they agreed that access to the subdivision may be an issue in the event of an emergency, they were not concerned with access due to a wildfire. McDermott currently meets Flathead County Road and Bridge Department standards and all interior subdivision roads will be required to meet these standards.

Flathead County Road and Bridge Department indicated they were concerned with access to the proposed subdivision in the event of an emergency because of presence of only one primary access and 57 potential single family residences.

7. Police Services

The property is located in an unincorporated area of Flathead County and is therefore served by the Flathead County Sheriff. Given the proximity of the subject property to Kalispell a reasonable response time is anticipated.

Finding #7

Impacts to Fire, Emergency Medical, and Police Services appear to be acceptable because although there is a lack of a second primary access or an emergency access to the proposed subdivision no representatives from Fire, Emergency Medical, and Police agencies voiced concerns.

8. Solid Waste Disposal

The developer is proposing contract haul as a mechanism for solid waste disposal as requested of all subdivisions by the Flathead County Solid Waste Department. James Chilton with Flathead County Solid Waste Department commented that the Evergreen Disposal will be the PSC responsible for solid waste disposal in this area. The applicant has contacted Evergreen Disposal and indicated they are capable of providing service to the proposed subdivision.

9. Other Utilities

As indicated in the application, Flathead Electric will provide electrical power, CenturyLink will provide telephone service, and Northwestern Energy will provide gas. Electric, telephone, cable TV, and gas utilities are required to be placed underground within the existing and proposed utility easements to serve the lots within the subdivision. The developer has indicated that the utilities will be installed underground with each phase.

Finding #8

Impacts on solid waste disposal and other utilities would be acceptable with the imposition of standard conditions because the lots within the proposed subdivision would utilize contract haul services for solid waste management and would have access to phone, cable TV, gas and electric utilities extended underground in conformance with the applicable regulations.

iii. Impact on the Natural Environment

1. Water Quality

Although there is no surface water on the subject property, the Stillwater River is located approximately 0.75 miles from the proposed subdivision. The Environmental Assessment indicates that although the Stillwater River will collect drainage from the subject property, water quality will not be adversely affected because there will be no alterations to the stream and no construction activities near the stream channel. The Environmental Assessment and associated analysis indicates a 97.5-year phosphorus breakthrough and low nitrate levels.

The stormwater management plan indicates all stormwater drainage would be managed onsite through retention and absorption in the roadside infiltration swales. As with all subdivisions, water, wastewater and stormwater management for the proposed subdivision will be required to be reviewed and approved as applicable by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality.

The Riverdale Land Use Advisory Committee has concerns regarding water quality with the subdivisions proximity to the Flathead County operated landfill as well as stormwater runoff associated with the subdivision. All water quality analytical reports submitted to the planning office indicate water quality appears to be sufficient for the proposed use. It is expected that these concerns will be addressed through the Montana Department of Environmental Quality (MTDEQ) review process if they feel it is necessary.

Finding #9

Adverse impacts to water quality as a result of the subdivision are not anticipated because the lots would be served by a new subsurface wastewater treatment system where each lot would have an individual septic tank drained to a community drain field, the new system will be required to be designed in accordance with applicable state and county regulations, stormwater management would prevent direct discharge of stormwater from entering area surface waters; the water supply, wastewater treatment, and stormwater management would be required to meet applicable requirements of the Flathead County Environmental Health Department and the Montana Department of Environmental Quality.

2. Air Quality

Impacts to air quality are expected to be minimal and are also mitigated because the subdivision is accessed by a paved local road and the internal subdivision road network will be paved. Because all lots will be accessed by a paved roadway and activities on site will be limited to single family residential use, it is not anticipated that air quality will be negatively impacted by the development. The applicant has submitted a Dust Control Plan compliant with Section 4.7.14 FCSR. In order to ensure all lot owners follow the plan, a note to be placed on the face of the final plat requiring the owners of all lots to abide by the guidelines in the plan during and after site construction and development activities will be required.

3. Impact of Noise

Development of residences on the subdivision lots would likely generate minimal noise during construction, and it is not likely they all would be built simultaneously. The proposed residential use is not anticipated to generate continuous noise that would affect residents or wildlife.

Finding #10

Adverse impacts to air quality and of noise are anticipated to be minimal and acceptable with the imposition of conditions as all roads accessing the subdivision will be paved and short-term construction related noise is the only anticipated noise to be generated by the subdivision development.

4. Impact to Flora

The vegetation on the subject property is primarily a mix of native grasses. The property has historically been used for native grass pasture and more recently a racetrack and associated spectator parking. The Natural Resource Conservation Service designates this property as Rangeland. The properties immediately to the south of the proposed subdivision are under a conservation easement through the Montana Land Reliance covering approximately 240 acres. Although the subdivision will remove the mix of native grasses from approximately 40 acres of the subject property, the native grasses in the area are not expected to be adversely affected because of the large amount of native grasses located on the conservation easement to the south protected from subdivision and development.

Figure 5: View from the subject property looking southwest



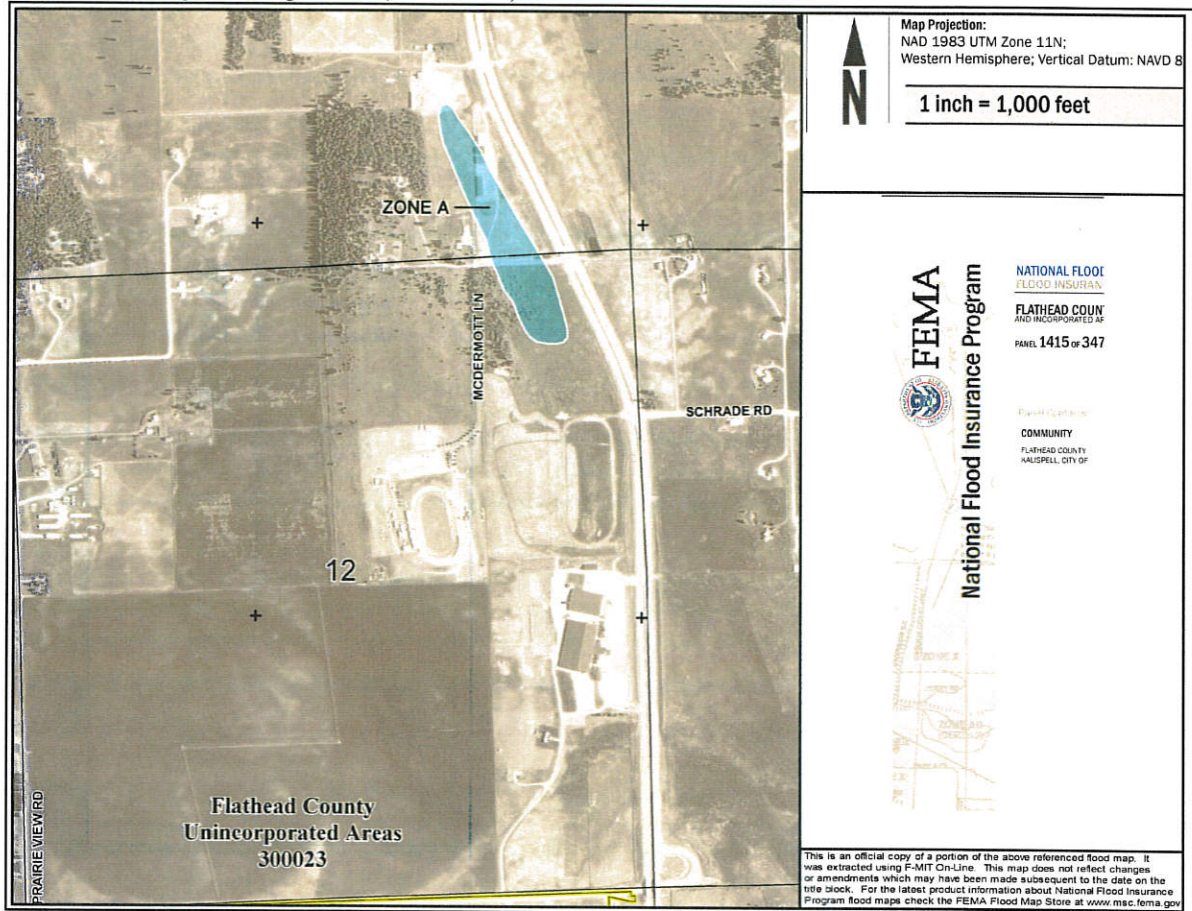
Finding #11

Impacts to flora are anticipated to be minimal and acceptable as the residential lots are located on flat open land currently designated as rangeland, and the 240 acres to the south are protected from further subdivision and development through a conservation easement.

5. Impact to Floodplain

According to FIRM Panel 30029C1415J, the subject property does not contain any Special Flood Hazard Area (SFHA) but the road accessing the proposed subdivision does contain some area designated as Zone A, an area subject to a 1% annual chance of flooding but without a determined base flood elevation. Comment from Dave Prunty of Flathead County Road and Bridge Department indicated the road flooded in 1996 at the area delineated as SFHA and the road was repaired by the owners of the subject property at the time of the flooding. Because the area designated as SFHA is not located on the property, but is located on the only access to the property, there is potential for the floodplain to affect the proposed subdivision but not for the proposed subdivision to affect the floodplain. The proposed subdivision does have a 60-foot private road and utility easement across the property directly to the east of the proposed subdivision and does not cross the SFHA.

Figure 6: Floodplain designations (not to scale)



Finding #12

Although the access to the subject property contains floodplain designated 'Zone A'; there is no impact to the floodplain anticipated because floodplain does not exist on the subject property but there is a potential for the floodplain to negatively affect access to the proposed subdivision.

6. Impact to Riparian/Wetland Areas

There are no rivers, streams (ephemeral or otherwise), designated wetlands, or riparian areas present on the subject property. The Stillwater River is located approximately 0.75 miles away. Because the development of the proposed subdivision will be located 0.75 miles away, significant impact to the riparian and wetland vegetation areas is not expected.

Finding #13

Adverse impacts to riparian and wetland vegetation is expected to be minimal because there is no riparian or wetland vegetation on the subject property and the nearest riparian vegetation is approximately $\frac{3}{4}$ of a mile away.

7. Impact to Historical Features

The Environmental Assessment indicates there are no known historic, archeological, or cultural sites on the subject property. A letter from Damon Murdo, the Cultural Records

Manager for the State Historic Preservation Office, indicates that there have been no previously recorded sites on the subject property. While there have been no previously recorded sites on the subject property, Damon Murdo explicitly mentions that this does not mean there are not any present on the subject property.

iv. Impact on Wildlife

Information provided in the Environmental Assessment and substantiated by the Montana Natural Heritage Program's Species of Concern report indicate this general area of the County (Township 29 N, Range 22 W) may be frequented by species of concern including Black Tern and Bull Trout. The Black Tern is a bird that prefers standing water bodies and has confirmed nesting areas up to 100 meters away from standing water bodies and considers these terrestrial areas critical to their breeding success. The Bull Trout is a fish and requires a stream or standing water body for habitat. Because the subject property does not have any of the habitat needed by the species of concern, it is not expected that impact to wildlife will be negatively impacted.

v. Impact on Wildlife Habitat

The Environmental Assessment indicates that the subject property may contain deer and wild turkey habitat and this has been reaffirmed by residents who live in the area. There is not any surface or standing water bodies on the subject property and as a result no habitat for the species of concern listed above. The property also has no areas that are identified as wetlands on the subject property. Jessie Coltrane of Montana Fish Wildlife and Parks indicated concern with the proposed subdivision in regards to wildlife habitat with the following comment: "The agricultural fields locates within the vicinity and adjacent to the proposed subdivision area provide important spring and fall habitat for migratory waterfowl, including Canada geese, northern pintails, and mallards, and sandhill cranes. Development of these areas into high-density housing will undoubtedly displace migrating waterfowl. This habitat also supports white-tailed deer and other small mammals."

Finding #14

Impact to wildlife and wildlife habitat are anticipated to exist but be minimal because the large conservation easement to the south is expected to provide habitat for any species of concern, white tailed deer, wild turkeys and migrating waterfowl.

vi. Impact on Public Health and Safety

1. Flood Risk

The subject property does not contain any SFHA areas according to FIRM Panel 30029C1415J. Impact on public health and safety relating to flood risk will be minimal. The only access to the proposed subdivision, McDermott Lane, contains SFHA and has the potentially to affect access to the subdivision.

Finding #15

Although no development will occur in the SFHA, impact to public health and safety relating to flood risk may occur because, McDermott Lane, the only road accessing the subject property contains areas designated 'SFHA.

2. Water and Wastewater Treatment

As previously stated, the subdivision will utilize a new public water system and a new public subsurface wastewater treatment system designed and constructed for single-family residential use. The location of the community drain field will be required to meet the standards set by the Montana Department of Environmental Quality and Flathead City-County Health Department with regard to location and non-degradation analysis. Groundwater monitoring conducted indicates groundwater is at an appropriate depth to accommodate the placement of a community drain field within the proposed subdivision. Nitrate sensitivity analysis and phosphorous breakthrough analysis were conducted for MDEQ review, indicating insignificant nitrate levels with a phosphorous breakthrough time of 97.5 years. The nitrate and phosphorous levels appear to be acceptable. Water and wastewater treatment systems for the proposed subdivision are required to be reviewed and approved as applicable by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality.

3. Stormwater

The submitted Stormwater Drainage Plan establishes the conceptual plan for stormwater management and indicates no stormwater drainage would enter vicinity surface waters as a result of runoff from the subdivision. The plan appears to adequately manage stormwater through roadside retention swales. As there would be more than one acre of ground disturbed through the installation of subdivision improvements it is anticipated the developer will be required to obtain a General Permit for Stormwater Discharges Associated with Construction Activity issued by the MDEQ.

Finding #16

The effects of this proposed subdivision on public health and safety in regard to the proposal for water, wastewater treatment, and stormwater management appear to be acceptable because the public water supply, public wastewater treatment systems and stormwater management plan would be required to be reviewed and approved as applicable by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality.

4. Road Network

Legal and physical access will be provided to each lot from the proposed internal road system that would extend from McDermott Lane, Raceway Loop, Victory Lane Circle, and Finish Line Drive. The new internal roads would be private roads open to the public and will be designed, built and paved to current applicable county standards. Copies of the Preliminary Plat, Traffic Impact Study, and Environmental Assessment were provided to Flathead County Road and Bridge Department and their comment indicates they have concerns regarding the level of service of the road network to safely accommodate the new traffic of the proposed subdivision as well as the lack of a second primary or emergency access. An approach permit for the additional lots will be required by final plat.

Finding #17

Impacts of the proposed subdivision on the area road network may not be acceptable because even though legal and physical access exists to the subdivision, comments from the Flathead County Road and Bridge Department indicate the proposal may have

unacceptable impacts in regard to the level of service of the road network and lack of a second access (primary or emergency) to the subdivision.

5. High Voltage Electric Lines/High Pressure Gas Lines

There are no exposed high voltage electric lines or high-pressure gas lines on the subject property.

6. Fire and Emergency Services

The property is not mapped as being within the Wildland Urban Interface. The site is located within the West Valley Fire District and a fire station is located approximately 9 miles from the subdivision on Farm to Market Road. The applicant has indicated that fire hydrants will be developed for fire protection. A conversation on December 2, 2016 with West Valley Fire District Chief, Russ Sappington, indicated he wanted the applicants to install a cistern on the property for fire protection as well as pressurized hydrants. The location of the recharge tank has yet to be determine and the developer has not included maintenance provisions in the CC&Rs regarding the cistern. The applicant will be required to include maintenance provisions for the cistern at final plat. The applicant will also be required to provide a copy of a letter from West Valley Fire Chief indicating the developer has taken reasonable fire protection measures as recommended.

The Kalispell Regional Medical Center is located approximately 6.6 driving miles away. Based on the location of the subdivision outside the city limits of Kalispell, emergency medical service response times should be consistent with those of the nearby city.

7. Geologic Hazards

The slope on the subject property varies from 2% to 30% with the majority of the future lots having a 2% slope. The subject property is generally flat with the exception of the racetrack bowl that will be cut and filled to even out the topography. The Environmental Assessment states, "It is expected that significant cutting and fillings will be done to blend the topographic depression with the surrounding ground outside of the racetrack." The preliminary plat application indicates 28,000 yards will be cut near the location of the north and south ends of the current racetrack (Figure 7). The subject property is not located on any mapped fault lines according to geologic fault data prepared and maintained by the Flathead County GIS Department.

146
147

APPROX. 28,000 CUBIC YARDS OF CUT

PROJECT: PINEDALE RACEWAY SUBDIVISION
LOCATION: LOCATED IN SECTION 12, T28N R22W PM16 PLATHEAD COUNTY, MONTANA
ENGINEER: APEIC Engineering
SOUTHERN, MONTANA
409.353.7257

CUT & FILL AREAS

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CUT & FILL AREAS

The subdivision is not located in an area of the County considered to be prone to avalanche hazards.

The subject property is not within an airport influence area.

As indicated by the application materials and supporting documentation, soils appear generally comprised of Prospect Loam soils with slopes varying between 2 and 20 percent. While a small area of soil located on the western side of the property are appropriate for agricultural use, less than 1% of the area of the subject property is considered “prime farmland if irrigated”. Based on the soil survey data, the soils on the subject property and proposed lots are not considered limited for development and would not pose a health and safety risk should they be developed.

Minimal risks to public health and safety are anticipated with the imposition of conditions because there are no high voltage electric or high pressure gas lines on or around the subject property, there are no geologic fault lines, there are no avalanche or airport influence areas, and soils on the subject property appear to be appropriate for development of residential use and associated infrastructure.

B. Compliance with Survey Requirements of 76-3-401 through 76-3-406 M.C.A.

Finding #19

The preliminary plat would conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required, meeting state survey requirements, which would be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.

C. Compliance with the Flathead County Subdivision Regulations

Finding #20

No variances are requested or required. A three-phase phasing plan has been proposed. The proposed subdivision is in general compliance with the Flathead County Subdivision Regulations, effective December 1, 2014 as compliant legal and physical access would be provided and potential impacts to the primary review criteria appear able to be adequately addressed by conditions.

D. Compliance with the Flathead County Subdivision Review Procedure

i. Pre-application Conference Date

August 8, 2016

ii. Application Deadline Date (6 months from pre-application)

February 3, 2017

iii. Application Submittal Date

September 2, 2016

iv. Completeness Date

October 12, 2016

v. Sufficiency Date

November 7, 2016

vi. Agency Referral Requests Mailing Date

November 16, 2016

vii. Adjacent Property Notification Mailing Date

December 23, 2016, April 21, 2017

viii. Legal Notice Publication Date

December 25, 2016, April 23, 2017

ix. On-site Posting of Public Hearing Date

December 28, 2016, April 26, 2017

Finding #21

The proposal has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective December 1, 2014.

E. Provision of Easements for the Location and Installation of Planned Utilities

Finding #22

The preliminary plat identifies adequate easements for utilities to serve the subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations.

F. Provision of Legal and Physical Access to Each Parcel

Finding #23

McDermott Lane would provide legal and physical access to the subdivision, and the proposed internal road system consisting of Raceway Loop, Victory Lane Circle, Finish Line Drive, and Pit Stop Circle would provide legal and physical access to the individual lots. The internal road system would be privately maintained, occurring within a 60-foot-private road right-of-way, would be constructed and paved in compliance with applicable Flathead County standards and an approach permit would be required for the access at McDermott Lane for the additional lots.

G. Review of Applicable Plans

76-1-605(2)(b) M.C.A. states that “*A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy adopted pursuant to this chapter.*” Furthermore, 76-3-608(3) M.C.A. does not contain compliance with the growth policy as a primary criteria by which an individual subdivision proposal must undergo local government review or on which findings of fact are to be based. Review of general conformance with applicable plans is provided as an acknowledgement and consideration of the guidance offered by the information contained in the document(s).

i. Neighborhood Plan

The proposed subdivision is located within the Riverdale Neighborhood Plan area. The plan designates the property as mixed use, which blends general commercial with residential uses. This “mixed use” category plan also encourages the use of open space for regional, community and neighborhood level use. The proposed subdivision will be explicitly residential and does not necessarily meet the definition of mixed use because the PUD plan submitted with the application excludes the commercial/business opportunity typical with an R-1 *Suburban Residential* zoning designation. The proposed R-1 zone would allow for residential uses but not commercial uses and the proposed PUD does not contemplate nor would it allow for commercial uses as currently drafted.

A variety of goals and policies within the text of the Riverdale Neighborhood Plan has been found pertinent to this request.

❖ Goal 2 – Encourage a range of housing types.

- **Policy 1.1** – *Permit townhouses, duplexes, and multi-family housing types in areas designated for mixed use.*
- Townhouses, duplexes, or multi-family housing types are not supported with this subdivision
- **Policy 1.5** – *Provide for a range of residential densities and housing types.*

- The proposed R-1 PUD does not allow for a variety of housing types or for mixed uses.
- ❖ **Goal 4** – *Preserve the right and opportunity to farm.*
 - Even though the property is currently zoned AG-40, the property is not in agricultural production.
- ❖ **Goal 5** – *Residential, commercial, and open space and recreational land uses that are integrated and are efficiently served by local services and necessary public facilities.*
 - **Policy 5.1** – *Permit a range of residential development densities and identify areas appropriate based on availability of local services, public facilities and physical constraints.*
 - **Policy 5.5** – *Encourage the creation of Planned Unit Developments (PUD).*
 - The proposed R-1 PUD does not allow for a variety of residential densities or housing types.
- ❖ **Goal 6** – *Provide opportunities for low and medium density residential development.*
- ❖ **Goal 7** – *Provide opportunities for mixed-use development within the Riverdale area.*
 - The proposed subdivision and associated PUD limits the use of the property to almost exclusively residential with no commercial uses allowed.

Finding #24

The proposed subdivision does not appear to comply with the map and text of Riverdale Neighborhood Plan because the proposal would not allow for a variety of housing types and there is no commercial component to the PUD subsequently not complying with the ‘mixed use’ designation.

ii. Flathead County Growth Policy

The Flathead County Growth Policy is a general policy document that meets the requirements of 76-1-601, M.C.A. and was updated on October 12, 2012. The location is in an area of the county that is designated as ‘Agriculture’ on the Flathead County Designated Land Use Map. The proposed ‘*R-1 Suburban Residential*’ zoning, PUD, and associated subdivision would appear to contrast with the current designations. However, Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, “*This map depicts areas of Flathead County that are legally designated for particular land uses. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plans. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents.*” Staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic and current land use. Because the Growth Policy call for consultation of the neighborhood

plan document and the Riverdale Neighborhood plan document calls for 'Mixed Use,' it can be interpreted that the subdivision proposal generally complies with Flathead County Growth Policy.

H. Compliance with Local Zoning

The proposed subdivision is located in an area of Flathead County that is zoned AG-40 *Agriculture* but is currently seeking a zoning map amendment to change the zoning to R-1 *Suburban Residential* (see file FZC-16-12) and also has submitted an application for a PUD (see file FPPUD-16-01). If the PUD and zone change were approved, the zoning on the subject property would be R-1 PUD. The subdivision proposal incorporates the use of a PUD that allows for an increased density of two dwelling units per acre (FCZR Section 3.31.030(4)(A)).

Finding #25

The preliminary plat is under review concurrently with a proposal to establish an R-1 Residential PUD, which would overlay the underlying R-1 zoning of the subject property. If the preliminary PUD were approved, the preliminary plat would comply with the applicable zoning because the subdivision and its lots would meet the density, use, and applicable bulk and dimensional requirements of the Montana Raceway R-1 PUD. The preliminary plat would not comply with local zoning if the zoning map amendment and PUD is not approved because the proposed subdivision density and lot sizes depend upon the permissible density allowances offered by the R-1 Residential PUD standards as outlined in Section 3.31.030(4)(A) of the Flathead County Zoning Regulations.

V. SUMMARY OF FINDINGS

Finding #1

Impact on agriculture may occur because although the subject property has not been utilized for agricultural production in previous years, over 70% of the subject property has 'severe limitations,' and 99.5% property is not considered prime farmland; the subject property is adjacent to property presently under agricultural production but will be mitigated by a 20 (twenty) foot agricultural buffer around the entire subdivision as well as a statement on the final plat indicating that the area is in active agricultural production.

Finding #2

There would be no impact to agricultural water user facilities because the subject property does not contain agricultural water user facilities.

Finding #3

Water quality and wastewater management for the proposed 57 lots appears to be appropriate because adequate quality appears to exist for the proposed public water system, sufficient soils and depth to water table exist for the new public subsurface wastewater treatment system, the water and wastewater systems would be required to be reviewed and permitted by the Montana Department of Environmental Quality as applicable prior to their installation and operation. The applicants did not submit a new water and wastewater plan with the updated application materials. It is assumed by the planning staff that the water and wastewater plan remain the same with the exception of lot size changes.

Finding #4

It is not clear whether the appropriate water supply for the subdivision exists because the application was unclear on well drawdown monitoring requirements, irrigation uses, and water right permits but this can be mitigated through conditions requiring the developer to be reviewed by the Montana Department of Natural Resource Conservation for applicable water rights.

Finding #5

Impacts on local services would be acceptable with the imposition of standard conditions because the proposed subdivision would be located within the Whitefish School District #44 which has indicated ability to accommodate students, a centralized mailbox is proposed and shall be approved by the postmaster, and the parkland that will be provided to satisfy the parkland requirement meets and exceeds the minimum requirement found in FCSR.

Finding #6

The transportation network does not appear to be adequate because there does not appear to be appropriate primary and emergency access to the subdivision although there does appear to be physical and legal access to the property, an approach permit would be required for final plat and the interior subdivision roads would be maintained by the homeowner's association.

Finding #7

Impacts to Fire, Emergency Medical, and Police Services appear to be acceptable because although there is a lack of a second primary access or an emergency access to the proposed subdivision no representatives from Fire, Emergency Medical, and Police agencies voiced concerns.

Finding #8

Impacts on solid waste disposal and other utilities would be acceptable with the imposition of standard conditions because the lots within the proposed subdivision would utilize contract haul services for solid waste management and would have access to phone, cable TV, gas and electric utilities extended underground in conformance with the applicable regulations.

Finding #9

Adverse impacts to water quality as a result of the subdivision are not anticipated because the lots would be served by a new subsurface wastewater treatment system where each lot would have an individual septic tank drained to a community drain field, the new system will be required to be designed in accordance with applicable state and county regulations, stormwater management would prevent direct discharge of stormwater from entering area surface waters; the water supply, wastewater treatment, and stormwater management would be required to meet applicable requirements of the Flathead County Environmental Health Department and the Montana Department of Environmental Quality.

Finding #10

Adverse impacts to air quality and of noise are anticipated to be minimal and acceptable with the imposition of conditions as all roads accessing the subdivision will be paved and

short-term construction related noise is the only anticipated noise to be generated by the subdivision development.

Finding #11

Impacts to flora are anticipated to be minimal and acceptable as the residential lots are located on flat open land currently designated as rangeland, and the 240 acres to the south are protected from further subdivision and development through a conservation easement.

Finding #12

Although the access to the subject property contains floodplain designated 'Zone A'; there is no impact to the floodplain anticipated because floodplain does not exist on the subject property but there is a potential for the floodplain to negatively affect access to the proposed subdivision.

Finding #13

Adverse impacts to riparian and wetland vegetation is expected to be minimal because there is no riparian or wetland vegetation on the subject property and the nearest riparian vegetation is approximately $\frac{3}{4}$ of a mile away.

Finding #14

Impact to wildlife and wildlife habitat are anticipated to exist but be minimal because the large conservation easement to the south is expected to provide habitat for any species of concern, white tailed deer, wild turkeys and migrating waterfowl.

Finding #15

Although no development will occur in the SFHA, impact to public health and safety relating to flood risk may occur because, McDermott Lane, the only road accessing the subject property contains areas designated 'SFHA'.

Finding #16

The effects of this proposed subdivision on public health and safety in regard to the proposal for water, wastewater treatment, and stormwater management appear to be acceptable because the public water supply, public wastewater treatment systems and stormwater management plan would be required to be reviewed and approved as applicable by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality.

Finding #17

Impacts of the proposed subdivision on the area road network may not be acceptable because even though legal and physical access exists to the subdivision, comments from the Flathead County Road and Bridge Department indicate the proposal may have unacceptable impacts in regard to the level of service of the road network and lack of a second access (primary or emergency) to the subdivision.

Finding #18

Minimal risks to public health and safety are anticipated with the imposition of conditions because there are no high voltage electric or high pressure gas lines on or around the subject property, there are no geologic fault lines, there are no avalanche or airport influence areas, and soils on the subject property appear to be appropriate for development of residential use and associated infrastructure.

Finding #19

The preliminary plat would conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required, meeting state survey requirements, which would be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.

Finding #20

No variances are requested or required. A three-phase phasing plan has been proposed. The proposed subdivision is in general compliance with the Flathead County Subdivision Regulations, effective December 1, 2014 as compliant legal and physical access would be provided and potential impacts to the primary review criteria appear able to be adequately addressed by conditions.

Finding #21

The proposal has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective December 1, 2014.

Finding #22

The preliminary plat identifies adequate easements for utilities to serve the subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations.

Finding #23

McDermott Lane would provide legal and physical access to the subdivision, and the proposed internal road system consisting of Raceway Loop, Victory Lane Circle, Finish Line Drive, and Pit Stop Circle would provide legal and physical access to the individual lots. The internal road system would be privately maintained, occurring within a 60-foot-private road right-of-way, would be constructed and paved in compliance with applicable Flathead County standards and an approach permit would be required for the access at McDermott Lane for the additional lots.

Finding #24

The proposed subdivision does not appear to comply with the map and text of Riverdale Neighborhood Plan because the proposal would not allow for a variety of housing types and there is no commercial component to the PUD subsequently not complying with the 'mixed use' designation.

Finding #25

The preliminary plat is under review concurrently with a proposal to establish an R-1 Residential PUD, which would overlay the underlying R-1 zoning of the subject property. If the preliminary PUD were approved, the preliminary plat would comply with the applicable zoning because the subdivision and its lots would meet the density, use, and applicable bulk and dimensional requirements of the Montana Raceway R-1 PUD. The preliminary plat would not comply with local zoning if the zoning map amendment and PUD is not approved because the proposed subdivision density and lot sizes depend upon the permissible density allowances offered by the R-1 Residential PUD standards as outlined in Section 3.31.030(4)(A) of the Flathead County Zoning Regulations.

VI. CONCLUSION

In accordance with the provisions of Section 4.4 of the Flathead County Subdivision Regulations, a review and evaluation of the major subdivision application has been completed by the staff of the Planning Board. The proposed subdivision does not appear to comply with the applicable design standards and subdivision review criteria found in Section 4.7 FCSR pursuant to draft Findings of Fact prepared herein, or identified impacts can be mitigated with conditions of approval. Should the Planning Board forward a recommendation of approval of this subdivision to the Flathead County Commissioners, the following conditions should be considered.

VII. CONDITIONS

A. Standard Conditions

1. The developer shall receive physical addresses in accordance with Flathead County Resolution #1626C. All road names shall appear on the final plat. Street addressing shall be assigned by Flathead County. [Section 4.7.16(g)(iv), 4.7.26(c) Flathead County Subdivision Regulations (FCSR)]
2. The developer shall comply with reasonable fire suppression and access requirements of the West Valley Fire District. A letter from the fire chief stating that the plat meets the requirements of the Fire District (or Department) shall be submitted with the application for Final Plat. [Section 4.7.26(b), FCSR]
3. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved shall be submitted with the final plat. [Section 4.7.25, FCSR]
4. Design and construction of all internal subdivision roads shall be certified by a licensed engineer and constructed and paved as proposed in accordance with the *Flathead County Minimum Standards for Design and Construction*, as applicable. [Sections 4.7.16, 4.7.17 FCSR]
5. With the application for final plat, the developer shall provide a compliant Road Users' Agreement or CC&R document which requires each property owner to bear his or her pro-rata share for maintenance of the roads within the subdivision **and for any integral access roads lying outside the subdivision**. [Section 4.7.15(e), FCSR]
6. All utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Section 4.7.23, FCSR]
7. The proposed water, wastewater treatment, and stormwater drainage systems for the subdivision shall be reviewed, approved, and permitted as applicable by the Flathead City-County Health Department, and approved by the Montana Department of Environmental Quality. [Sections 4.7.20, 4.7.21 FCSR]
8. The mail delivery site shall be provided with the design and location approved by the local postmaster of USPS. A letter from the postmaster stating that the developer has

- met their requirements shall be included with the application for final plat. [Section 4.7.28, FCSR]
9. In order to assure the provisions for collection and disposal of solid waste, the developer shall submit a letter from the applicable solid waste contract hauler stating that the hauler is able to provide service to the proposed subdivision. [Section 4.7.22, FCSR]
 10. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14, FCSR]
 11. All road names shall be approved by Flathead County and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c), FCSR]
 12. The following statements shall be placed on the face of the final plat applicable to all lots:
 1. All road names shall be assigned by the Flathead County Address Coordinator and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c), FCSR]
 2. All utilities shall be placed underground. [Section 4.7.23, FCSR]
 3. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14, FCSR]
 4. Solid Waste removal for all lots shall be provided by a contracted solid waste hauler. [Section 4.7.22, FCSR]
 5. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed. [4.7.25, FCSR]
 6. Solid Waste removal for all lots shall be provided by a contracted solid waste hauler. [Section 4.7.22, FCSR]
 7. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed. [4.7.25, FCSR]
 13. The final plat shall comply with state surveying requirements. [Section 76-3-608(b)(i), M.C.A.]
 14. Where the aggregate total disturbed area of any infrastructure construction in the proposed subdivision as defined in A.R.M. 17.30.1102(28) is equal to, or greater than one acre; or where when combined with subsequent construction of structures such disturbed area will be equal to, or greater than one acre, a Montana State Department of Environmental Quality (DEQ) General Permit for Stormwater Discharges Associated with Construction Activity (General Permit) shall be obtained prior to any site disturbance or construction and a copy of the DEQ confirmation letter shall be provided to the Flathead County Planning & Zoning office prior to final plat approval. [17.30.1115 Administrative Rules of Montana (A.R.M.)]

15. All required improvements shall be completed in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the County Commissioners. [Section 4.0.16, FCSR]
16. All internal subdivision roads shall be certified by a licensed engineer and constructed and paved in accordance with the Flathead County Minimum Standards for Design and Construction, as applicable. [Sections 4.7.16, 4.7.17 FCSR]
17. The final plat shall be in substantial compliance with the plat and plans submitted for preliminary plat review, except as modified by these conditions. [Section 4.1.13, FCSR 3.]
18. The applicant shall comply with reasonable fire suppression and access requirements of the West Valley Fire District and the Kalispell Fire Department. A letter from each fire chief stating that the plat meets the requirements of the fire District (or Department) shall be submitted with the application for Final Plat. [Section 4.7.26(b), FCSR]]
19. Preliminary plat approval is valid for three years. The final plat shall be filed prior to the expiration of the three years. Extension requests to the preliminary plat approval shall be made in accordance with the applicable regulations and following associated timeline(s). [Section 4.1.11 FCSR]

B. Project-Specific Conditions

20. The proposed phasing plan shall be implemented in accordance with the requirements of Section 4.4.2 of the Flathead County Subdivision Regulations; each development phase submitted for final plat review and approval shall be required to meet all conditions of approval established or identify where certain conditions have been previously met or are not applicable to the particular phase.
21. The proposed water supply for fire suppression shall meet all applicable requirements set forth in Section 4.7.26(e) of the Flathead County Subdivision Regulations. A letter from West Valley Fire Department indicating requirements have been met shall be included with final plat application.
22. A cistern and nine pressurized fire hydrants to the specifications of the West Valley Fire District shall be installed prior to the approval of the final plat of the first phase[Section 4.7.26(b) FCSR]. A letter from West Valley Fire Department indicating requirements have been met shall be included with final plat application.
23. A maintenance plan for the cistern and fire hydrants shall be included with final plat.
24. Prior to final plat approval of the first phase and each subsequent phase the developer shall provide evidence that all applicable water right requirements of the Department of Natural Resources Water Resources Division have been met. [Section 4.7.20(d) FCSR]
25. The applicant shall show proof of a completed approach permit from the Montana Flathead County Road and Bridge for the additional lots onto McDermott Lane [Section 4.7.16, FCSR]

26. Covenants, Conditions and Restrictions (CC&Rs) shall be recorded at the time of final plat describing the intended use, management, and ownership of the open space. [Section 5.09.020(8), FCZR]
27. The final PUD Plan of Montana Raceway R-1 PUD shall be approved by Resolution of the Flathead County Board of Commissioners in order that the proposed subdivision is compliant with applicable local zoning prior to final plat approval.
28. The following statement shall be placed on the face of the final plat:
 8. This subdivision is located in an agriculturally active area. Noise, smells, and activity associated with agriculture can be expected.

Planner: kn